

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION

No. 4:14-CV-55-F

COMPANION PROPERTY AND
CASUALTY INSURANCE
CORPORATION,

Plaintiff

v.

W.O. WHITE TRUCKING, LLC;
WILLIAM O. WHITE; MARTY G.
WHITE; DELMA O. WHITE; HILDA D.
WHITE; DOW 1, LLC; and PDWOW, LLC,

Defendants.

ORDER

This matter is before the court on the Plaintiff's Motion for Partial Summary Judgment and Stay of Further Proceedings [DE-45]. The Plaintiff has moved for partial summary judgment on its first cause of action—Breach of Contract/Specific Performance—against Defendants W.O. White Trucking, LLC; William O. White; and DOW 1, LLC (together, the "Defendants"). The court has considered the documents filed in support of this motion, namely the Plaintiff's Verified Complaint [DE-1], the Memorandum of Law in Support of Plaintiff's Motion for Preliminary Injunction [DE-4], the Affidavit of John Northrop [DE-5], the Entry of Default [DE-38], and the Memorandum of Law in support of the present motion [DE-46]. The Defendants have not filed any response to the present motion nor have they presented any opposing evidence. Having reviewed the materials before it, the court finds that there is no genuine issue of material fact and that the Plaintiff is entitled to summary judgment as a matter of law. *See* Fed. R. Civ. P. 56(a); *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247-48 (1986). Therefore, the

Plaintiff's Motion for Partial Summary Judgment and Stay of Further Proceedings [DE-45] is ALLOWED. The court enters the following relief in favor of the Plaintiff:

1. The Defendants are jointly and severally liable to the Plaintiff and are hereby specifically ORDERED to perform their duty to post collateral security under the Indemnity Agreement;

2. The Defendants are hereby ORDERED to post to the Plaintiff collateral security in the amount of One Million Dollars (\$1,000,000): (1) in certified funds within fifteen (15) days of this Order; or (2) in real property, personal property, assignments, and/or security interests in property within twenty (20) days of this Order; or (3) a combination of cash in certified funds and property within twenty (20) days of this Order;

3. This is an Order for specific performance covered under Rule 62(a)(1) of the Federal Rules of Civil Procedure;

4. Failure of the Defendants to abide by this Order and post the required collateral security will result in the Court using its inherent powers, and those granted by Rule 70 of the Federal Rules of Civil Procedure, to enforce this Order;

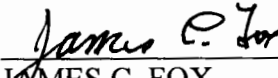
5. The Court hereby STAYS all further proceedings in this matter pending the Plaintiff's completion of the construction projects identified in its Verified Complaint;

6. The Plaintiff is hereby ORDERED to notify this Court when all such construction projects have been completed and the final amount of its indemnity claim is known; and

7. The Plaintiff's Motion for Preliminary Injunction [DE-3] is hereby DENIED AS MOOT.

SO ORDERED.

This the 2nd day of February, 2015.



JAMES C. FOX
Senior United States District Judge